



**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**PHILIP BURNAMAN, INDIVIDUALLY &
AS ADMINISTRATOR OF CHARLES
BURNAMAN, DECEASED, AND ON BEHALF
OF ALL WRONGFUL DEATH BENEFICIARIES
OF CHARLES BURNAMAN, DECEASED**

PLAINTIFF

VS.

CAUSE NO. 3:12-cv-00001 / HTW / 12 / 01
JURY DEMAND

**COUNTRY BROOK LIVING CENTER; SSC
BROOKHAVEN OPERATING COMPANY LLC,
INDIVIDUALLY; SSC BROOKHAVEN
OPERATING COMPANY, LLC D/B/A
COUNTRY BROOK LIVING CENTER; JOHN
DOES 1-10 AND JOHN DOE ENTITIES 1-10**

DEFENDANTS

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants, Country Brook Living Center; SSC Brookhaven Operating Company LLC and SSC Brookhaven Operating Company LLC d/b/a Country Brook Living Center¹, hereby give notice of the removal of the above entitled action, which is filed as Civil Action Number: 2011-556LS in the Circuit Court of Lincoln County, Mississippi, from said court to the United States District Court for the Southern District of

¹ The Plaintiff has actually incorrectly identified SSC Brookhaven Operating Company LLC as three separate entities in the style of this action. "Country Brook Living Center" is merely the trade name by which SSC Brookhaven Operating Company LLC does business. Thus, there is no need to "name" Country Brook Living Center and SSC Brookhaven Operating, LLC and then name SSC Brookhaven Operating Company LLC d/b/a Country Brook Living Center. The only proper Defendant in this action is SSC Brookhaven Operating Company LLC.

Mississippi. This Notice of Removal is filed pursuant to 28 U.S.C. §1332, 28 U.S.C. §1441, and 28 U.S.C. §1446.

CIVIL ACTION REMOVED

1. Civil Action Number: 2011-556LS in the Circuit Court of Lincoln County, Mississippi, which is styled, "*Philip Burnaman, Individually & as Administrator of Charles Burnaman, Deceased, and On Behalf of All Wrongful Death Beneficiaries of Charles Burnaman, Deceased vs. Country Brook Living Center, SSC Brookhaven Operating Company LLC and SSC Brookhaven Operating Company, LLC d/b/a Country Brook Living Center*" is a civil action that was filed on November 10, 2011. The Plaintiff alleges that the Defendants committed medical negligence while providing care to Charles Burnaman while he was a resident at the nursing home, Country Brook Living Center.

DIVERSITY OF CITIZENSHIP

2. The Plaintiff alleges that he is an adult resident of Rankin County, Mississippi.
3. Defendant Country Brook Living Center is a trade name rather than a legal business entity. Thus, it has no legal residence.
4. SSC Newport Operating Company, LLC is a Delaware limited liability company. Its sole equity member is SSC Submaster Holdings LLC. SSC Submaster Holdings LLC's sole equity member is SSC Equity Holdings LLC. SSC Equity Holdings LLC's sole equity member is SavaSeniorCare LLC. SavaSeniorCare, LLC's sole equity member is SVCARE Holdings LLC. SVCARE Holdings LLC's sole equity member is Canyon Sudar Partners, LLC, and Canyon Sudar Partners, LLC has two members, Leonard Grunstein and Murray Forman. Mr.

Grunstein is a resident of Teaneck, New Jersey, and Mr. Forman is a resident of Lawrence, New York.

5. A LLC is a citizen of every state in which one of its members is a citizen. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077 (5th Cir. 2008); *Greenville Imaging, LLC v. Wash. Hosp. Corp.*, 326 Fed. Appx. 797, 798 (5th Cir. Miss. 2009). Based on the memberships set out above, SSC Brookhaven Operating Company LLC is a resident of New York and New Jersey, and the Plaintiff is a resident of Mississippi.

6. Therefore, there is complete diversity of citizenship between the parties as defined by 28 U.S.C. § 1322(a)(1).

FACTS AND CONTROVERSY SUPPORTING JURISDICTIONAL AMOUNT

7. Plaintiff's Complaint (which is attached as part of Exhibit "A") alleges medical negligence on the part SSC Brookhaven Operating Company LLC, and seeks compensation for wrongful death and survival, decedent's physical injuries, emotional distress, pain and suffering, loss of enjoyment of life, medical expenses, funeral and burial expenses, and the pecuniary value of the decedent's life, including loss of consortium.

8. The Complaint seeks recovery for alleged negligence which Plaintiff contends resulted in infection, the amputation of Mr. Burnaman's left leg, septic shock, acute renal failure, pain and suffering, and ultimately his death. Plaintiff seeks actual and compensatory damages including medical bills, physical pain and suffering and mental anguish. The Complaint seeks over \$2 million in compensatory and punitive damages. Thus, the amount in controversy exceeds the jurisdictional requirement of \$75,000.00, exclusive of costs and interest, as required

by 28 U.S.C. § 1332.

9. Accordingly, this Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, in that it is a civil action between citizens of different states, wherein the amount in controversy exceeds the sum of \$75,000.00, exclusive of costs and interest. Therefore, this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

TIMELINESS OF REMOVAL

10. Defendants were served with process on December 12, 2011. Therefore, thirty days have not elapsed since the removing Defendants were served with process or first became aware that federal jurisdiction exists, and Defendants' removal is timely as required by 28 U.S.C. § 1446(b).

COPIES OF STATE COURT PROCEEDINGS

11. Pursuant to 28 U.S.C. §1446(a), the Defendants attach hereto as Exhibit "A" and incorporate herein by reference, a true and correct copy of all process, pleadings and orders served upon this Defendant on file in Civil Action Number: 2011-556LS, in the Circuit Court of Lincoln County, Mississippi.

NOTICE TO THE STATE COURT

12. The Defendants will immediately file with the Circuit Court of Lincoln County, Mississippi, a true and correct copy of this Notice, thereby effecting removal of this action to this Court. As per 28 U.S.C. § 1446(d), no further proceedings shall be had in the Circuit Court of Lincoln County, Mississippi.

NOTICE TO PLAINTIFF

13. Pursuant to 28 U.S.C. § 1446(d), and consistent with the Certificate of Service, the

Plaintiff is being provided with a copy of this Notice of Removal.

WHEREFORE, PREMISES CONSIDERED, Country Brook Living Center; SSC Brookhaven Operating Company LLC and SSC Brookhaven Operating Company LLC d/b/a Country Brook Living Center respectfully pray that this Court will receive this Notice of Removal, place it upon the docket of this Court, and that the Circuit Court of Lincoln County, Mississippi will proceed no further in this action unless and until this matter is remanded.

Respectfully submitted this the 3rd day of January, 2012.

COUNTRY BROOK LIVING CENTER; SSC
BROOKHAVEN OPERATING COMPANY
LLC, INDIVIDUALLY; SSC BROOKHAVEN
OPERATING COMPANY, LLC D/B/A
COUNTRY BROOK LIVING CENTER

WILKINS TIPTON, P.A.

BY 

J. Michael Coleman (MSB #99546)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, J. Michael Coleman, do hereby certify that I have this day caused to be served via United States Mail, postage fully prepaid, a true and correct copy of the above and foregoing *Notice of Removal* to the following:

Don H. Evans, Esquire
Christie Evans Ogden, Esquire
Quentin A. Daniels, Esquire
Matt Newman, Esquire
500 East Capitol Street, Suite 2
Jackson, MS 39201
Attorneys for Plaintiff

Ms. Terry Lynn Watkins
Circuit Clerk - Lincoln County
P.O. Box 357
Brookhaven, MS 39602

THIS the 3rd day of January, 2012.



J. Michael Coleman